

REMARKS

Status of Claims

Reconsideration of the present application as amended, and in view of the following remarks, is respectfully requested.

Independent claim 186 and dependent claims 189 to 192, 195, and 197 to 208 are currently pending.

Claims 186, 189, 190, 195 and 197 have been amended. Claim 186 (and new claim 205) has been amended to include "clump strength". Support for "clump strength" subject matter can be found in the specification from paragraphs [0082] to [0083].

New claims 198 to 204 and 206 to 208 have been added, and find support in the claims as originally filed.

While not acquiescing to the Office Action's position, and solely in an effort to expedite prosecution of the application, Applicants have cancelled claims 187, 188, 193, 194, and 196 without prejudice.

Claims 109-185 are withdrawn.

Applicants respectfully submit that no new matter has been added by virtue of the present amendment.

Summary of the Office Action

Claim 196 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 186, 187, 191-194 and 197 are rejected under 35 U.S.C. 102(b) as anticipated by US Patent 5,638,770 (Peleties). Claim 195 is rejected under 35 U.S.C. 103(a) as obvious over US Patent 5,638,770 (Peleties). Claims 188-190 are rejected under 35 U.S.C. 103(a) as obvious over US Patent 5,638,770 (Peleties) in view of US Patent Application Publication US2002/0046710 (Preti et al.).

Amendments to the Claims

Claim 187 and 188 are cancelled, and claim 186 is amended to include the subject matter, i.e., the inclusion of activated carbon to the composite particles such that each homogeneously agglomerated composite particle contains a percentage of bentonite,

a percentage of expanded perlite and a percentage of activated carbon.

Claims 193 and 194 have been cancelled because of the amendment to claim 195 wherein the homogeneously agglomerated composite particles have a bulk density less than 0.5 g/cc.

Claim 196 is cancelled without prejudice in response to the rejection under 35 U.S.C. 112, second paragraph, as allegedly being indefinite.

Rejection Under 102

The Office Action at page 4, contends that Peleties discloses a particle of bentonite clay and expanded perlite further comprising at least one performance-enhancing active inclusive of an odor absorbent. However, Applicants respectfully submit that the relied-upon embodiment merely discloses the inclusion of an odor absorbent in reference to a bentonite clay and expanded perlite mixture, not a litter composition comprising an agglomerated mixture of bentonite clay and expanded perlite. (See Peleties column 1, lines 46-65)

Applicants respectfully contend that Peleties fails to teach or suggest a plurality of composite particles wherein substantially each particle contains a percentage of bentonite, a percentage of expanded perlite and a percentage of activated carbon for use as an animal litter wherein the clump strength, an indication of the percentage of particles retained in a clump after six hours upon addition of an aqueous solution is greater than 90%.

The Office Action at page 5, incorrectly contends that Peleties discloses the particles have a bulk density less than 1.5g/cc and more particularly 0.25-0.85 g/cc (column 1, line 56). However, Applicants respectfully contend that Peleties actually discloses that a mixture of bentonite clay and expanded perlite can be arranged to have a bulk density of 650-950 Kg/cubic metre (0.65 to 0.96 g/cc) and not a bulk density less than 1.5g/cc and more particularly 0.25-0.85 g/cc as alleged by the Examiner.

Therefore, it is respectfully submitted that Peleties fails anticipate Applicants' claimed invention. Since claims 191, 192, and 197 ultimately depend from claim 186 it is respectfully submitted that these claims are not anticipated by Peleties either.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of the 35U.S.C. §102(b) rejection.

Rejections Under 103

The Office Action, at page 5, rejects claim 195 under 35 U.S.C. 103(a) as obvious over Peleties. Claim 195 is now directed towards a plurality of composite particles having a bulk density less than 0.5 g/cc.

Applicants respectfully contend that since Peleties only teaches particles having a bulk density between 0.65-0.95 g/cc (col. 1, line 56) and that Peleties further teaches that particles having a bulk density between 0.65-0.95 g/cc are advantageous as pet litter in terms of cost effectiveness and efficiency of use (col. 1, lines 57-59), one of ordinary skill in the art would not be motivated to experiment with these conditions since Peleties already teaches that the advantageous range is 0.65 to 0.95 g/CC.

Accordingly, Applicants respectfully request the reconsideration and withdrawal of this 35 U.S.C. §103 (a) rejection.

The Office Action, at page 6, rejects claim, 188-190 under 35 U.S.C..103(a) as obvious over Peleties in view of Preti at alt. The Examiner notes Peleties fails to disclose powdered activated carbon (PAC) in the litter. As discussed above, it is submitted that claim 186 is patentable over Peleties. Thus, since claims 188-190 ultimately depend from claim 186, it is respectfully submitted that they too are patentable over Peleties.

Applicants also contend that Preti et al disclose adding effective amounts of odor reducing agent (PAC) and a cross-adapting agent (ethylesters of 3M2H) to swine slurries, and that the use of PAC without a cross-adapting agent did not work sufficiently. (See Preti et al [0044], [0046-0050] and claims 1, 2 and 5.) Applicants contend that neither Peleties nor Preti et al. either alone, or in combination, teach, hint, or suggest a motivation as to why one would modify Peleties' pet litter mixture of bentonite and expanded perlite with Preti et al.'s swine slurry odor treatment comprising an odor reducing agent (PAC) cross-adapting agent (ethylesters of 3M2H).

Accordingly. Applicants respectfully request the reconsideration and withdrawal of this 35 U.S.C. §103 (a) rejection.

Provisional Double Patenting Rejection

Claims 186-197 are provisionally rejected on the grounds of nonstatutory obviousness double patenting as being unpatentable over claims 1-41 of copending Application No.10/861,044.

Upon allowance of the claims, Applicants will consider filing a Terminal Disclaimer.

Interview With the Examiner

Applicants want to thank Examiner Smith for granting an interview at the USPTO on April 28, 2006. Applicants greatly appreciated Examiner Smith's courtesies extended during the interview, wherein she helpfully made suggestions pertaining to potential claims directed towards agglomeration, and discussed potential particle bulk density ranges in overcoming Peleties.

Prior art made of record and not relied upon

Applicants acknowledge the prior art made of record and not relied upon in Office Action directed towards Lawson, US 5,295,456 and Lawson US 5,303,676.

Conclusion

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney. An early and favorable consideration of this Response is earnestly and respectfully solicited.

In the unlikely event that the Patent Office determines that an extension and/or other relief is required as a result of this response, Applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due to Deposit Account No. 03-2270.

In re application of: Fritter et al.
Application No.: 10/618,401

However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

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